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ABSTRACT

The paper addresses the major ideas of Massachusetts' Chapter 776--the Bartley-Daly Act--which mandates the provision of educational services to handicapped children ages 3 to 21, particularly in relation to P.L. 94-142--the Education for All Handicapped Children Act. Sections address the following areas: legal responsibility for ensuring implementation, the interdisciplinary evaluation, program prototypes, the public-private school issue, and regional and state advisory committee. A final section discusses evaluation of the Chapter's major provisions. Among conclusions are that the full core evaluation committee appears to be too cumbersome to be workable; that by holding local school districts totally financially responsible for any child placed in a private school, the Commonwealth encourages local public school programs; and that one strong point of Chapter 766 is the recognition of the importance of parent involvement through advisory committees. (SBH)

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THE BARTLEY-DALY ACT

Regulations for the Implementation of Chapter 766 of the Acts of 1972: The Comprehensive Special Education Law of The Commonwealth of Massachusetts: An Analysis Within the Context of Public Law 94-142

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INTRODUCTION

In the summer of 1972, the Commonwealth of Massachusetts mandated the provision of educational services to handicapped children ages three through 21. Responsibility for directly providing or obtaining appropriate services was assigned to the public school system. This special education legislation is the Bartley-Daly Act or more commonly Chapter 766.

Following the passage of Chapter 766 in 1972 and prior to its implementation on September 1, 1976, rules and regulations have been drafted for the purpose of assisting responsible agents implement the Act and to ensure that handicapped children would benefit from its full intent.

MAJOR IDEAS

LEGAL RESPONSIBILITY

Legal responsibility for ensuring that Chapter 766 is implemented and enforced is assigned to the school district in which the handicapped individual resides. The school district citizens elect a committee, referred to as the School Committee, which is responsible for seeing that Chapter 766 is enforced. The School Committee employs as their administrator, a Director of Special Education. Each school district has such an administrator, although for those districts where the school age population is less than 3000 children, the director may have responsibilities other than those related to special education.

Educational services for handicapped children can be provided in one of the following three ways: a) local school district, b) cooperative programs, c) private schools. Following an inter-disciplinary evaluation, recommendations are passed to the director of special education and the school committee who decide where the child's total needs can best be met. In all instances, first consideration is given to program placement in the district in which the child resides. When the local school program is, for some reason, unsuitable for the child, cooperatives are utilized. Cooperatives are a number of surrounding school districts combining resources in order to bring educational services to children whose needs cannot be adequately met in a local program. Two major reasons for placement in a cooperative are: a) the severity of the child's disability, and b) the low-incidence of the handicap within the school district. When cooperatives are unable to appropriately serve the child, placement in a private school is made.

THE INTERDISCIPLINARY EVALUATION

One of the following two types of evaluations are conducted on an annual basis: a) full core, b) intermediate. The difference in the two types is in the make-up of the evaluation team. The full-core evaluation team is composed of the following individuals.

1) director of special education - chairperson
2) registered nurse or social worker or counselor with M.A. degree
3) psychologist
4) teacher most familiar with the child
5) physician or designee
6) local school administrator
7) parent of the child
8) upcoming teacher
9) primary person who will be assisting the teacher implement the program
10) outside person working with the child at parent's request
11) vocational-educational person for adolescents 16 through 21
12) additional specialists who must be approved by the parents

An intermediate evaluation is not as intense and includes numbers 7-8-9-10 of the full core evaluation and those individuals who have provided assessments in the past.

Determination for a full core evaluation is made in one of the following four manners:

1) child is receiving special help out of the regular class more than 25% of the time

2) upon parents' request (parents must be advised of this right and must waive it in writing)

3) dissatisfaction with the intermediate evaluation

4) advice of personnel administering the intermediate evaluation

PROGRAM PROTOTYPES

Special education programs are provided in a number of locations and designs. Types of programs include:

1) regular educational program with necessary modification

2) regular educational program with 25% of the individual's time spent receiving special services in another room

3) regular educational program with 25-60% of the handicapped individual's time spent receiving special services in another room

4) substantially separate program

5) day school program

6) residential school program

7) home or hospital

8) parent-child

9) diagnostic

Most of these prototypes are self-describing; however numbers 4-8-9 need further elaboration. A substantially separate program functions as a remedial or transition class; the purpose being to prepare the individual

to enter or return to a regular education program of the number 1-2 type. Four requirements of this type program are as follows:

1) There may be no more than eight children in the class.

2) The age range may not exceed 36 months.

3) Individual goals must be similar.

4) Personnel must be trained.

The parent-child program is supplemental to the regular educational program, and is provided when either the family makes a request or the school feels it is necessary. In the latter instance, the family must approve.

Diagnostic services are made available to children on a short and long-term basis, full or part-time. Such programs are highly individualized and specific.

THE PUBLIC-PRIVATE ISSUE

Historically, residential schools in the northeastern portion of the United States have been privately operated. Because of the small geographic size of Massachusetts, children classified as low-incidence were served primarily in private, residential schools. With the passage and implementation of Chapter 766 however, children with sever physical handicaps such as deafness and children with mental impairments were recognized as equal under the law and thereby eligible for public school programs as near to their home as possible. Thus, the school committee looks to the public schools as primary providers of educational services.

When factors necessitate placement of a handicapped child in a private school, the local school district pays the full cost of the program and the Commonwealth of Massachusetts reimburses the district according to the following formula:

> the amount by which the cost of the instruction and support actually rendered or furnished to such child by the private school exceeds the average per pupil expenditure of that school committee for the education of pupils of a comparative age; provided, however, that the amount of such reimbursement shall not exceed 110% of the state average expenditure applicable to the program in which such child is placed minus the state average expenditure per public school pupil.

REGIONAL AND STATE ADVISORY COMMITTEE

In an effort to overcome inadequacies and inequities in the provision of special education services, regional and state advisory committees, with parents and lay people as principal members, were established. These committees, through Chapter 766, are granted significant powers in overseeing, evaluating and operating special education programs. The committee membership is as follows:

1) one parent of a substantially disabled child in the 3-4 age group

2) nine parents representing the program prototypes; with no more than 2 representing any one prototype
3) two teachers representing the regular education system and the special education system
4) a public school administrator
5) a member of the Advisory Council of the Department of Education
6) a vocational administrator or teacher
7) a professional from an institution of higher education
8) one person who has demonstrated commitment to school age children with special needs
9) a member of a local council for children
10) designees from the Departments of Mental Health, Public Health, Public Welfare and Office for Children to serve on an ex officio basis

EVALUATION OF MAJOR IDEAS

LEGAL PROVISION

The Constitution of the United States makes education a state responsibility. By turning over this responsibility to local school districts, the Commonwealth may find that should Chapter 766 be tested, it would be judged unconstitutional.

It is doubtful that such a court case would arise, because provisions within Chapter 766 practically guarantee that a handicapped child will be served in a program approved by the parents. Since most civil suits relative to a child's education are brought by parents, the liklihood of a court case is minimal.

By establishing cooperatives and making the private, residential schools a part of the total system, Massachusetts has recognized that factors may exist whereby the needs of a handicapped child might best be met in a program outside the district. In addition, cooperatives make highly specialized programs more economically feasible.

The major weakness in this system is the ever-present possibility of inequity. A specialized private program such as the Perkins School for the Blind may be available to one blind individual and for some reason not be available to another individual with a similar disability. For example, a local district may feel that its major obligation is to keep the handicapped child in an educational program near his home, without consideration of the needs of the child. Another child may be placed, with parent approval at Perkins or some other school, because it is there that the child's needs can best be met.

THE INTERDISCIPLINARY EVALUATION

The full-core evaluation committee appears to be too cumbersome to be workable. While the intermediate evaluation committee is of an appropriate size, it too could become cumbersome if too many individuals involved in prior assesments of the handicapped child are included.

As with any interdisciplinary approach to evaluating individuals, there is danger when one individual from a particular background writes the final report. For example, a psychologist writes from a psychological perspective and overlooks the importance of special teaching techniques; while a teacher might not give proper emphasis to clinical observations made ,relative to behaviors. Care must be taken to see that no one perspective dominates the report.

PROGRAM PROTOTYPES

Like program placement options as mentioned in the legal provision portion of this paper, program prototypes are necessary in a strong educational continuum. Prototypes recognize individual differences among children who might otherwise be educationally stereotyped because of their handicap.

THE PUBLIC-PRIVATE ISSUE

The Commonwealth's approach to dealing with this issue is one of the two strongest points in Chapter 766. By holding local school districts totally financially responsible for any child placed in a private school, the Commonwealth encourages local public school programs.

One danger in such an approach however, is that less than adequate programs may be established locally and deny the handicapped child the services he needs and can receive in a private, residential school.

REGIONAL AND STATE ADVISORY COMMITTEES

The other very strong point of Chapter 766 is the recognition of the importance of parent involvement through advisory committees. Too often, state governments receive advice from professionals who have a self-serving motive underlying their opinions as committee members. Parents have long-term responsibility for their off-spring and should consequently put the needs of their child first. These diverse committees provide a good check-balance system.

IMPLICATIONS

Special education services are costly. The per capita cost of a residential program is approximately 7½ times that of a day program. With

an emphasis on quality local, public school programs, the cost can be expected to rise, with no decline in local and state aid to private, residential schools. Eastern residential schools are well-established, with obvious strong political ties. It is anticipated that rather than decreasing state expenditure to special education, the Commonwealth's special education financial outlay will increase considerably.